

REMARKS

Claims 1-32, 34-40, 46, 48, 50, and 58-74 are pending in this application. Claim 74 is new. Claims 9, 10, 15-32, 34-40, 46, 48, 50, and 58-63 have been withdrawn. Claims 33, 41-45, 47, 49, and 51-57 have been canceled. Claims 14 and 67 have been amended.

Responsive to the action mailed July 8, 2005, Applicants elect the invention of Group III (at least claims 2, 5-8, 65-71, 74) with traverse.

Applicants elect the following species with traverse as there is no undue burden to search all species and for additional reasons given below:

1) Intramolecular disulfide bond. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on these species. Note that claim 68 (which refers to "a varied loop of about 4 to 12 non-cysteine residues") reads on this species since the varied loop can be located between the two cysteines that form the disulfide bond. The loop and the disulfide bond result in a cyclic structure. See e.g., page 22, lines 15 to page 24, line 24. Claim 68 has been amended to be dependent from claim 67.

2) Dipeptide. Applicants elect a species in which the peptide includes an aromatic dipeptide sequence. The election requirement is not understood since it is not phrased as choice between alternative species. For example, a peptide that includes an aromatic dipeptide sequence is also a peptide that includes at least one aromatic. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on these species. Applicants point out that claim 33 has been canceled.

3) Co-extensive. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on the elected species. Note that claims 34 and 35 are not mutually exclusive alternatives. In fact, claim 34 also reads on the elected species. Claim 35 requires that "residues of the peptide that mediate binding to the target molecule and residues that mediate binding to the serum albumin are co-extensive." A protein with this property may also exhibit mutually exclusive binding as between binding to the target molecule and serum albumin. This characteristic may even be likely where the residues that mediate binding are co-extensive, and thus very close or overlapping in the physical structure.

4) Integrin with respect to claim 37. Election of a target molecule (integrin) was previously made in the telephonic interview of January 18, 2005 and made of record. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on the elected species.

5) With a conjugated moiety. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on the elected species. Note that both claims 38 and 39 read on this species, since both refer to a species that might have a conjugated moiety.

6) With a cytotoxic moiety. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on the elected species.

7) With a Kunitz domain. Claims 1-8, 11-14, 25-32, 34-40, 64-74 read on the elected species.

As explained above, all pending claims currently under examination read on the elected species. Applicants emphasize the many of the claims are generic with respect to the species and encompass the elected and non-elected species. For example, claim 25 encompasses both a protein that includes a cytotoxic moiety and one that does not include a cytotoxic moiety.

Applicants respectfully request that the Examiner withdraw the restriction requirement with respect to Groups I, II, and III. First, as stated in MPEP § 803, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants submit that the Examiner has not provided any reason why it would be burdensome to examine the claims of Groups I, II, and III together. In fact, a first Office Action was issued by the Patent Office, prior to the present restriction requirement. For that Office Action, original claim 1 was searched and examined. Original claim 1 was broader in scope than the presently pending claims 1, 3, and 65. There cannot be an undue burden in examining presently pending claims 1, 3, and 65 in the instant application if original claim 1, which was broader in scope than claims 1, 3, and 65, has already been searched.

Second, on page 3 of the restriction requirement, the Examiner states that these three Groups "have acquired a separate status in the art because of their recognized divergent subject matter." Applicants submit that the Examiner has provided no basis for this conclusory statement. According to MPEP § 808.02:

Where the related inventions as claimed are shown to be distinct under the criteria of MPEP § 806.05(c) - § 806.05(i), the examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following:

(B) A separate status in the art when they are classifiable together: Even though they are classified together, each subject can be shown to have formed a separate subject for inventive effort when an explanation indicates a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search. (emphasis added)

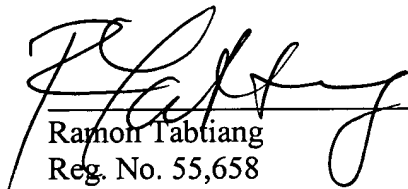
Applicants submit that the Examiner has not indicated that the subject matter of Groups I, II, and III are classified separately, thus, it is Applicants' understanding that the subject matter of these Groups are classified together. Thus, Applicants again respectfully request that the Examiner withdraw the restriction requirement with respect to Groups I, II, and III.

No statement herein is an admission that any claim is not patentably distinct from another or that any claim is obvious over another. Applicants reserve the right to rejoin any claim, including a claim of the groups traversed above as appropriate and to present additional reasons for traversing the restriction requirement.

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Respectfully submitted,

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